ott. II.27—23,006—24-12

PUBLIC (POLICE) (1934) Department

MS SERIES.

G.O. No. 111

DATED 2nd March 934

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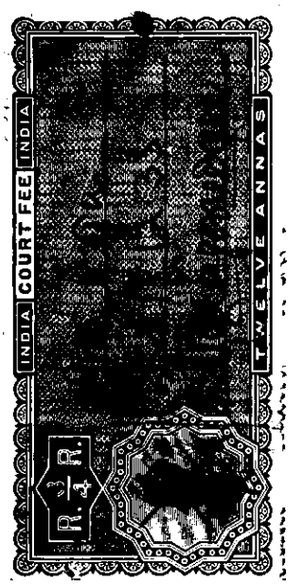
[Despatch Abstract.]

ARMS ACT South Kanara District -
Gun licence - PIAD ALVA.
Cancellation by the District Magistrate -
Appeal - Order passed

01/7.3.34

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To

The Government of Madras.

Humble petition of Piad Alva son of Balthizar Alva, Belle Village, Udipi Taluq, South Kanara District.

Dated 21st.December 1933.

The petitioner most respectfully sheweth as follows :-

1. That petitioner is a landholder and holds warg-lands in his own name paying an assessment of Rs 35/- and also has Mulgeni lands 6 acres, and Chalgeni lands 6 acres, --- having self-cultivation in the village of Bellé.

2. That petitioner has been a license-holder - Udipi 20/1 in Form XVI for the whole District of South Kanara, for a single barrel muzzle loading gun, for the past 20 years and had his license duly and punctually renewed and this year also it was sent for renewal, as early as November, for the next year. But unfortunately to petitioner, he was served with an order, in return, that he should deposit his gun in the Police Station and that his license has been cancelled and Petitioner, accordingly, has deposited his gun in the Udipi Police Station.

3. That petitioner was at a loss to know the unforseen cause of such a coincidence and sudden cancellation of his license, when it was only meant for renewal as usual and

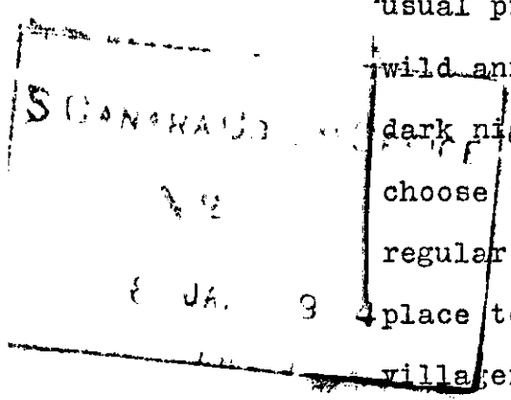
to his utter misfortune, he learnt that his license was cancelled by the District Magistrate for not purchasing ammunution for the last 3 years as it was apparent from the back of the license as the last entry was on 9-4-1930. Subsequently petitioner was served with a notice to that effect and petitioner attributes it to his mere misfortune.

4. That as petitioner has no other go, he ventures to approach the Government and submits that this order of the District Magistrate, is a hard and unbearable task on petitioner when he has to pay the Government assessment, and other rents, specially considering the fall in the price of rice and other produce and damages incurred owing to floods in this and in the past year, and the protection of crop will be at a stake if the petitioner is devoid of using any fire-arm and his crop will be surely at the mercy of the wild animals in as much as the lands in question, are situated close to the Reserve and Revenue forests for which purpose, petitioner was holding a license for the past 20 years. Petitioner further submits man-eating panthers are roaming about in Jadkal, Golihole, Wondse and Hebri and its neighbourhood, the forests of which are --- directly connected with Belle where petitioner cultivates and petitioner is the only licensee in Form XVI in Belle Village and the other licensee has one in Form XIX for Belle Village only, and the Board of Revenue has been kind enough to encourage and sanction a special reward of Rs 75/- for the destruction of each of them in their Rt.No: 5303, Dated 24th.October 1933 and yet casualities are reported day by day, and specially women and children carried away even in broad day light and the man-eaters are still at large. ---

Petitioner's necessity for a gun is therefore quite ---- absolute.

5. That petitioner begs permission to submit that no penalty is prescribed for breach of a Rule calling on the licensees to purchase ammunition and keep it in large stock with them every-time - either under the Indian Arms Act or under the Indian arms Rules 1924, or at least in the guiding conditions mentioned on the reverse of every license, in which case petitioner would have taken special precaution not to voilate such Rules and if such condition or Rule was wilfully neglected or disobeyed the petitioner had no reason whatsoever to approach the Higher authorities for any redress as he will be guilty of the offence ---- charged with. Petitioner either in his life time or during the past 20 years as a license holder, never came across with any instance of this type on the mere ground that an entry about the purchase of ammunition was wanting on the back of license for a period of 3 years.

6. That petitioner has been a licensee for the past 20 years and as such he must necessarily be in possession of at least some ammunition just needed to protect his crop and for self protection and for that he had purchased ammunition on 9-4-1930 and only 3 years have lapsed as he thought it would be quite sufficient in his case for the present. A mere accumulation of ammunition is not anly a waste for poor villagers but also against arms Rules to possess in excesss. A po of gun-powder and a tin of 250 caps when used only for the protection of Crop and self-protection, will carry a long way off and it is a ----



usual practice in this District and elsewhere to scare away wild animals under unavoidable circumstances as in pitch dark night and heavy rains during which time the wild animals choose to play their havoc on, by employing coolies to keep regular watch by drum-beating. That it would not be out of place to state that English Sportsmen are not like the native villagers. The former make use of their arms frequently in sports and display whereas the latter are confined to protect their Crops and cattle as emergency demands and hence sparingly use their arms and ammunition. It is also a ----- common practice among licenseholders to help each other in lending ammunition bona-fide in any short coming as they --- think it does not amount to any offence - Petitioner is ----- afraid that he is not the only defaulter in cases of this kind as none of the licensees had any previous intimation to such a Ruling (if any).

7. That petitioner therefore humbly prays that on a kind consideration of the above facts and personal grievances and that Petitioner has been a licensee for the past 20 years without wantonly disobeying any arms Rules, the Government may be kindly pleased to order the District Magistrate, South Kanara, to restore the petitioner's license duly ----- renewed with a warning, if need be, that a repetition of such defect in future will not be overlooked.

For which act of kindness and generosity, petitioner will ever remain grateful.

Notice on Ref.C.2 - 4709/M.33
is enclosed for kind perusal.

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Public Police Dept

Endorsement No 61-1 dt 5 1 34

Referred to The District Magistrate of South Kanara for remarks.
C Bayorder

Under Secretary
5-1-34

To The District Magistrate
South Kanara.
[With petition to be returned with reply]

Ref: C.2.-4709/M.33,

South Kanara District Magistrate's
Office,
Mangalore, 7th December 193

# N O T I C E

To

Pidd Alva,
S/o Balthazar Alva,
B e l l e.

holder of G.L. No. Udi. 20/1/XVI.

***

Take notice that as you have not purchased any ammunition since 9th April 1930 you are considered not to have need of a gun and your gun licence has been cancelled. You should therefore deposit your gun either in the police station or with a licensed dealer within seven days of the receipt of this notice; failing which you are liable to be prosecuted under the Indian Arms Act. Petitions for re-consideration of this order will not be accepted. An appeal lies to the Government of Madras.

** ** **

/Sd. . . . . .
Huzur Sheristadar.

Trhough the Tahsildar Magistrate, Udipi.

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R.Y; 1058 - 33
9- received [illegible] the station House officer, Udipi
(A) Tahsildar

C3631

I. Dis. 326-M-34

South Kanara District Magistrate's Office.

Camp: Sampaje, dated 5th February 1934.

From

E. M. Game, Esq, I.C.S.,

District Magistrate,

South Kanara.

To

The Chief Secretary to Government,

Public (Police) Department,

Madras.

Sir,

Arms Act--South Kanara District--Udipi Taluk--Gun License Udipi 20/1 in form XVI for Muzzle Loading gun--cancellation--Petition of Piad Alva for restoration--reported.

Ref: Government endorsement No. 61-34, dated 5th January 1934.

I cancelled the petitioner's license Udipi 20/1 in form XVI for a S. B. M. L. gun in pursuance of a general policy of restricting the possession of firearms by only those who actually need them either for self protection or protection of crops and cattle. The petitioner did not purchase ary ammunition for his gun for the last 3½ years and thus showed that the gun was not needed by him for any purpose. In the Taluk of Udipi, which is largely a coastal area, the licensees do not purchase ammunition because there is nothing to shoot. Nor are firearms needed for personal safety as in the days when people used to travel with valuables in carts by night; nowadays people go chiefly by buses. I have made an exception in the case of village headmen and have allowed them to keep their licenses even though no ammunition was bought. There is no doubt that once a man has got a license, he will go on paying the petty amount for its renewal every year till his death whether he needs a firearm or not.

2. I enclose herewith for the reference of Government a

a comparative statement of firearms of different kinds in force in this district during the last six years. The statistics will show that in spite of the cancellation of some licenses in 1933 on account of non-purchase of ammunition for the last three years there is almost no change in the total number of licenses in 1932 and 1933, but that there is an increase in 1933 in the number of crop protection licenses in form XIX and also in the number of Breech Loading guns when compared with 1932 while the decrease in 1933 is only in respect of licenses for Muzzle Loading guns obtained for sports and personal safety. It is these latter licenses which I have chiefly cancelled in 1933. I consider that there can be no case for increasing the number of fire-arms for sports when there is a decreasing amount of game.

3. The petition received with the Government endorsement is resubmitted.

Your obedient servant,

Dt. Magistrate.

Comparative statement of licensed weapons in the District of South Kanara.

1929 to 1933.

| Year | Rifles. | Revolvers. | Pistols. | VI Form I.I. Guns. | VI Form I.I. Guns | XIX I.I.Guns. | Total. |
|---|---|---|---|---|---|---|---|
| 1929 | 37 | 82 | 28 | 617 | 1969 | 4106 | 6899 |
| 1930 | 33 | 89 | 33 | 774 | 2084 | 4313 | 7276 |
| 1930 | 40 | 96 | 38 | 896 | 2080 | 4417 | 7567 |
| 1931 | 89 | 94 | 38 | 898 | 2091 | 4320 | 7410 |
| 1932 | 34 | 80 | 32 | 919 | 2028 | 4240 | 7333 |
| 1933 | 35 | 65 | 29 | 964 | 1949 | 4282 | 7319 |

South Kanara Dt. Magistrate's Office,
Camp: Sampaje, dated 6th February 1934.

District Magistrate.

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Public(Police)Department.

Arms Rules - South Kanara district - Cancellation of gun licence - Appeal.

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(Ct. 61) From Piad Alva petition d. 21-12-1933.
(Endt. to the D.M. of South Kanara No.51-1 Public(Police) d. 5-1-1934.)

(Ct. 3631) From the D.M. of South Kanara L.Dis 826.m.34 d. 5-2-1934.

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This is an appeal from Piad Alva against the order of the D.M. of South Kanara cancelling his licence for a S.B.M.L. gun. The D.M's reasons for cancelling the licence are:-

(1) The general policy is to restrict possession of firearms only to those who actually need them for self protection or protection of crops or cattle

(2) The fact that the appellant did not buy any ammunition for the last three and a half years showed that he did not need a gun for any purpose.

2. The reason urged by the appellant for the cancellation of the D.M's order is that as the lands which he cultivates is situated close to Reserve and Revenue forests he needs a gun to protect his crops against wild animals as well as for self protection. In para 6 of the appeal he has explained why he had no occasion to buy any ammunition for the last three years. The D.M. does not seem to have considered these points/when offering his remarks on the petition - see pages 6-7 C.F.

-2-

3. If the D.M. felt that the licensee has not need for the weapon possessed by him, the proper procedure would have been to refuse the renewal of the licence in exercise of the powers conferred on him by rule 43 of the Indian Arms Rules, 1924. The D.M. has however cancelled the licence. A licence can be cancelled only under section 18 of the Indian Arms Act, 1878. The licensee has not been convicted of an offence under the Arms Act or the Rules thereunder; his case does not therefore come under clause (b) of Section 18. Nor can it come under clause (a) of the Section because, according to the D.M's order, the cancellation of the licence was found necessary not in the interest of public peace but on the score that he had not purchased any ammunition for over a long period and was therefore considered not to have need for the weapon. If this is accepted the D.M's order will have to be set aside as being irregular.

It can scarcely be said that in this case there was any danger to the public peace involved.

4. For orders.

16.2.34.

Submitted that the D.M.'s order will have to be set aside, the circumstances being explained to him. Refusal to renew a licence is a different matter.

16/2

him

19.1.34

Draft order is submitted.

20/2/34

22.2.34

UNDER SECRETARY
21 FEB 1934
CHIEF SECRETARY
21 FEB 1934
GOVT. OF MADRAS

(8)
1/3

11

Please see the extract of US' notes since written in a d.c. question file on the same subject at (7). p 12 ante.

Draft order below is for consideration.

27.2.34.

28/2

In view of the fact that the D M's proceedings are technically illegal, the order has to be set aside. If the D.M now exercises his discretion not to renew, further difficulties arise, because since the order of cancellation is set aside, the licence remains in force and appeal to him is time barred. Also action of this kind would create a feeling of injustice. It seems better to order the D M to renew the licences this year at least.

1/3/34

1.3.34

CHIEF SECRETARY
1 - P 1931
GOVT. OF MADRAS

1/3/34

UNDER SECRETARY
1 - MAR 1934

12

Extract of notes from the file regarding L.C.Q. No.993 re cancellation of licences in the South Kanara district.

It would appear that the D.M. has been freely and illegally cancelling licences. In the case of the three appeals that have come up it has been held that his orders must be reversed. It may be presumed that the same would apply to all the orders he has issued. These orders being illegal it is a question for consideration whether the D.M. should not be instructed to withdraw them and exercise his discretion by refusing to renew licenses instead. If so, these instructions may issue in the files connected with the three appeals. On the other hand, as the damage has been done, the matter might be left alone and appeals dealt with as they come in. For orders.

Yes
G.T.H.B.
22.2.

** **

D.H.E.
22-2-34

G.T.H.B.
22-2-34

M.U.
25-2-34

Sectt. II-5 (6)

22/2.3

Public (Police) 13 DEPARTMENT.

| | Date. | Initials. |
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Arms Act - South Kanara district - Gun licence - Piad Alva - Cancellation by the D.M.-Appeal - Orders passed.

READ AGAIN G.O. No. ....., dated ..... 19

" " " " ..... " ..... 19

*READ ALSO* :—

C No. ..... From the Mr Piad Alva petition No ....., dated 21-12 19 33.

ಫ.ಸಿ-ಯಸಿ F

" " ..... " " ..... " ..... " ..... 19 .

" " ..... " " ..... " ..... " ..... 19 .

ORDER.

Ms

No. III , dated 2/3/1934

ಬಿಬಿ-೬೦ Indian Arms Act-Rules in

Mr.Piad Alva is referred to the D.M. of South Kanara for orders on his petition.

2. The attention of the D.M. of South Kanara is drawn to Section 18 of the Indian Arms Act, 1878, which alone provides for the cancellation of arms licences. As the case of Mr. Piad Alva ~~does not~~ cannot be held to fall under ~~come under~~ either clause of that section, the cancellation of his gun licence was illegal. If the D.M. ~~is~~ was satisfied that Piad Alva had no need for a gun, the proper procedure for the D.M. was to refuse, in exercise of the powers conferred on him by rule 43 of the Indian Arms Rules, 1924, renewal of his

14

licence when it came before him for that purpose. The D.M. is now asked to withdraw his order cancelling the licence of Mr.Piad Alva, and, ~~to exercise his discretion by refusing to renew his licence~~. Similar action should also be taken in all ~~other~~ like cases of ~~such~~ cancellation of licences ~~which~~ have been illegally ordered.

in view of the fact that the D.M's procedure was technically illegal, to renew the licence for the current year.

To Mr.Piad Alva son of Balthizar Alva, Belle village, Udipi taluk, South Kanara district (Para 1 only) (with hsc.f)
(Check copy & hsc.f. for file).

To the D.M. of South Kanara with ref. to his letter L.Dis. 826 m 34 d. 5-2-1934 (with pp 9-10 c.f. returned.)